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Attorneys for Plaintiff and Counter Defendant

ViaSat, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

ViaSat, Inc.,

a Delaware corporation,

Plaintiff

and Counter Defendant,

v.

Acacia Communications, Inc.,

a Delaware corporation,

Defendant

and Counter Claimant,

) Case No.: 3:16-cv-00463-BEN-JMA

) **Plaintiff ViaSat, Inc.'s Response to**
) **Defendant Acacia Communications,**
) **Inc.'s *Ex Parte* Application**

) Dist. Judge: Hon. Roger T. Benitez

) Hon. Magistrate Jan M. Adler

) Case Initiated: January 21, 2016

1 Plaintiff ViaSat, Inc. (“ViaSat”) obtained hearing dates for three separate
2 motions from the Court’s law clerk, and assumed (perhaps wrongly) that the 25-page
3 limit in Local Rule 7.1(h) would apply to each separate motion, since three separate
4 hearings were sought. ViaSat should have clarified this point with the Court, and
5 either requested separate hearing dates for each separate motion or obtained leave of
6 Court for 25 pages per motion, under Local Rule 7.1(h), since the Court set all three
7 motions for the same date.

8 ViaSat does not object to defendant and counterclaimant Acacia
9 Communications, Inc. (“Acacia”) having 25 pages for each of its oppositions to each
10 of ViaSat’s motions (a concession Acacia could have easily clarified by waiting a few
11 more minutes for a return phone call from ViaSat’s counsel, rather than rushing to
12 file its *Ex Parte* Application).

13 This is a case of significant magnitude, raising complex intellectual property,
14 contract, and jurisdictional issues. Each of ViaSat’s three motions raises important
15 issues which require the full amount of briefing ViaSat devoted to them. Acacia also
16 filed four separate motions, totaling **89 pages**, so it would be extremely prejudicial
17 to strike ViaSat’s motions or limit ViaSat to 25 pages when Acacia has submitted
18 even more briefing to the Court.

19 If the Court wishes to limit the page allocation for each hearing date to 25
20 pages, ViaSat would respectfully request that each of its three motions be set on
21 separate hearing dates. If that is the Court’s approach, ViaSat suggests that its
22 Motion for Summary Judgment on Acacia’s Counterclaim for Patent
23 Misappropriation (Dkt. No. 89) be heard first, since it would potentially result in
24 remand of the entire case to state court if granted (thereby obviating the need for the
25 Court to adjudicate any of the remaining motions, including Acacia’s).

26 If the Court is inclined to leave all three of ViaSat’s motions set for the same
27 date, ViaSat respectfully requests leave to exceed the page limit specified by Local
28

1 Rule 7.1(h), and ViaSat consents to Acacia having up to 25 pages for each of its
2 opposition briefs.

3 Dated: February 6, 2018

FITZGERALD KNAIER LLP

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5 By: s/ *Kenneth M. Fitzgerald*

Kenneth M. Fitzgerald, Esq.

6 Keith M. Cochran, Esq.

7 -and-

8 WARREN LEX LLP

9 Matthew S. Warren, Esq.

10 Patrick M. Shields, Esq.

11 Attorneys for Plaintiff and Counter
12 Defendant ViaSat, Inc.

CERTIFICATE OF SERVICE

I certify that today I am causing to be served the foregoing document by CM/ECF notice of electronic filing upon the parties and counsel registered as CM/ECF Users. I further certify that, to the extent they are not registered CM/ECF Users, I am causing the foregoing document to be served by electronic means via email upon counsel for Acacia Communications, Inc., per the agreement of counsel.

Dated: February 6, 2018

s/ Kenneth M. Fitzgerald

Kenneth M. Fitzgerald, Esq.